

**BEFORE THE FEDERAL ELECTIONS COMMISSION**

FILED  
APR 13 10 03 AM '98

**MURS 4407 AND 4544**

**MOTION TO MODIFY SUBPOENA**

Pursuant to 11 C.F.R. § 111.15, the Florida Democratic Party (FDP), applies to the Federal Election Commission (Commission) for an order modifying the Subpoena to Produce Documents and Order to Submit Written Answers issued by the Commission on March 31, 1998. Specifically, the FDP requests that the Commission modify and limit the scope of Interrogatory No. 5, which provides, in pertinent part, as follows:

5. State the time and date of each meeting and telephone conversation during which there was any discussion of any kind concerning the planning, organization, development and/or creation of television, radio or print advertisements.

In support of its motion to modify subpoena, the FDP states as follows:

1. On April 6, 1998, undersigned counsel was served, pursuant to agreement with counsel for the Commission, by certified mail, return receipt requested with a Subpoena to Produce Documents and Order to Submit Written Answers. A copy of the subpoena is attached hereto as Exhibit "A" and is incorporated by reference.

2. The subpoena seeks information relating to advocacy advertisements produced by two media firms identified as Squier Knapp Ochs Communications (SKO) and November 5 Group, Inc. (November 5), and activities by the Democratic National Committee (DNC) and the Clinton/Gore '96 Primary Committee, Inc. (Clinton/Gore) with respect thereto. The subpoena seeks information for the time period from January 1, 1995 to the present.

3. The FDP has been involved in the planning organization, development and/or creation of television, radio or print advertisements for literally hundreds of statewide, legislative and local government candidates or issues during the applicable time period. These races and elections are subject to the jurisdiction and regulation by state law. They are not subject to the jurisdiction of the Commission. For example, during the 1996 election cycle the entire state House of Representatives and one-half of the state Senate were up for election. The FDP actively participated in scores of contested races. In the interim, there have been several special legislative elections. The FDP actively participated in those contests. Currently, state legislative races are shaping up as well as statewide races for Governor and six other statewide elected Cabinet posts. The FDP is planning for those campaigns.

4. Interrogatory No. 5 purports to require that the FDP state the time and date of each meeting and telephone conversation during which there was any discussion of any kind concerning the planning, organization, development and or creation of television, radio or print advertisements for such candidates or issues.

5. As such Interrogatory No. 5 is overly broad and exceeds the jurisdiction of the Commission. Moreover, Interrogatory No. 5, inasmuch as it applies to state campaigns and issues, seeks information not relevant to any matter involved in the pending proceedings before the Commission. In addition, because Interrogatory No. 5 seeks information relating to literally hundreds of state campaigns and issues not subject to the jurisdiction or regulatory supervision of the Commission, the FDP should not have to be subject to the undue burden or expense of responding to such an overly broad interrogatory. Inasmuch as Interrogatory No. 5 seeks information relating to on-going campaigns, it seeks proprietary and confidential information which

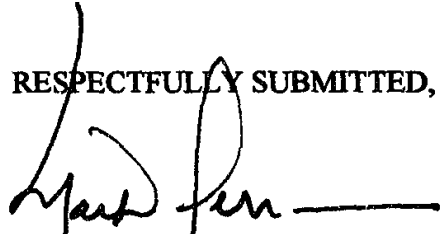
should not be disclosed.

6. The FDP intends to comply with the Commission's request for information under Interrogatory No. 5 insofar as it seeks information relating to advocacy advertisements produced by SKO and November 5 and activities of the DNC and Clinton/Gore with respect thereto.

WHEREFORE, the FDP respectfully requests that the Commission modify and limit the scope of Interrogatory No. 5 as set forth in its Subpoena to Produce Documents and Order to Submit Written Answers issued by the Commission on March 31, 1998, to information relating to the advertisements produced by SKO and November 5 and the activities of the DNC and Clinton/Gore with respect thereto.

Dated this 10th day of April, 1998.

RESPECTFULLY SUBMITTED,



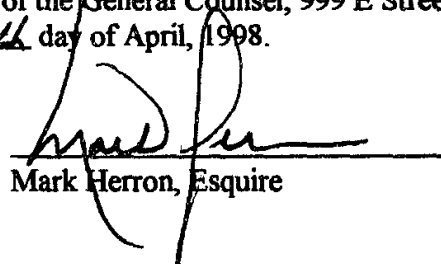
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MARK HERRON, Esquire  
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Tallahassee, FL 32301  
(850) 567-4878  
FAX (850) 561-8754

FL Bar No. 199737

**Certificate of Service**

I certify that a copy of the foregoing Motion to Modify together with 3 copies thereof, have been furnished to the Federal Elections Commission, Office of the General Counsel, 999 E Street, NW, Washington, D.C. 20463, by Federal Express, this 10th day of April, 1998.



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Mark Herron, Esquire

**BEFORE THE FEDERAL ELECTION COMMISSION**

APR 13 10 03 AM '98

In the Matter of

MURs 4407 and 4544

**SUBPOENA TO PRODUCE DOCUMENTS  
ORDER TO SUBMIT WRITTEN ANSWERS**


To: Florida Democratic Party  
c/o Mark Herron, Esquire  
Akerman, Senterfitt & Eidson, P.A.  
Suite 200  
216 South Monroe Street  
Tallahassee, Florida 32302

Pursuant to 2 U.S.C. §§ 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.


WHEREFORE, the Vice Chairman of the Federal Election Commission has hereunto set  
his hand in Washington, D.C. on this 31st day of March, 1998.

For the Commission,



Scott E. Thomas  
Vice Chairman  
Federal Election Commission

ATTEST:

*for*   
Marjorie W. Emmons  
Secretary to the Commission

Attachments

Interrogatories and Document Requests

FILED  
MAR 31 1998  
FBI - WASH DC

### **INSTRUCTIONS**

In answering the interrogatories and requests for production of documents, furnish all documents and other information specified below, however obtained, including hearsay, that are in your possession, custody or control, or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each discovery request propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input and those who assisted in drafting the response.

If you cannot answer the discovery requests in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information. When an approximation or estimate is stated, designate the approximation or estimate as such and identify and describe each method by which, and each source of information upon which, the approximation was made.

Should you claim a privilege or other objection with respect to any documents, communications, or other items about which information is requested by the following interrogatory and requests for production of documents, describe such items in sufficient detail to provide justification for the claim or other objection. Each claim of privilege must specify in detail all grounds on which it rests. No part of a discovery request shall be left unanswered merely because an objection is interposed to another part of the request.

Unless otherwise indicated, the following discovery requests refer to the time period from January 1, 1995 to the present.

The following interrogatories and requests for production of documents are continuing in nature and you are required to file supplementary responses or amendments during the course of this matter if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which such further or different information came to your attention.

### **DEFINITIONS**

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"Clinton/Gore" shall mean the Clinton/Gore '96 Primary Committee, Inc.

"Commission" shall mean the Federal Election Commission

"DNC" shall mean the Democratic National Committee and each of its accounts

"SKO" shall mean Squier Knapp Ochs Communications

"November 5" shall mean the November 5 Group, Inc.

"State Democratic Party" shall mean the Democratic Party entity for each state in the United States of America, the Democratic Party entity for each territory of the United States of America, and any other Democratic Party entity within the United States of America that is permitted to accept funds from any of the following DNC accounts, or any other DNC accounts: DNC Service Corp./Democratic National Committee, DNC Non-Federal Unincorporated Account, DNC Non-Federal Finance Fund, DNC Non-Federal Building Fund, DNC Non-Federal Corporate, DNC Non-Federal General, DNC Non-Federal Max-Pac, DNC Non-Federal General #2, and DNC Non-Federal Individual.

"Radio Station" means the place, building, or establishment from which radio services are provided or operations are directed.

"Television Station" means the place, building, or establishment from which television services are provided or operations are directed.

"You," "your" and "their" shall mean the named person or entity to whom these requests are directed, including all officers, employees, agents, volunteers and attorneys thereof.

"Person" shall mean an individual, partnership, committee, association, corporation, labor organization, or any other type of organization, entity or group of persons as defined in 2 U.S.C. § 431(11).

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term "document" includes data or information compiled or maintained in electronic or digital form, such as computer files, tables, spreadsheets or databases. The term "document" also includes, but is not limited to books, letters, contract notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, check

ledgers, money orders or other commercial paper, invoices, receipts, wire transfers, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, electronic records, and electronic mail messages. Each draft or non-identical paper or electronic copy is a separate document within the meaning of this term.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document. "Identify" with respect to a document shall also mean the identification of each person who wrote, dictated or otherwise participated in the preparation of the document (typists need not be included), each person who signed or initialed the document, each person who received the document or reviewed it, and each person having custody of the document or a copy of the document. Identification of a document includes identifying all originals or copies of that document known or believed to exist.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and telephone numbers, and the present occupation or position of such person. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these discovery requests all responses that otherwise might be construed to be out of their scope.

Except where the discovery request states otherwise, any reference to the singular shall be construed as including the plural, any reference to the plural shall be construed as including the singular, and any reference to one gender shall include the other.

The Commission incorporates herein by reference the full text of the definitions of other terms set forth in 2 U.S.C. § 431 and 11 C.F.R. § 100.

### **DOCUMENT REQUEST**

1. All documents in your custody or control that refer to, relate to, or contain any information regarding television, radio or print advertisements developed and created by SKO which were paid for in whole or in part by the DNC. Such advertisements include, but are not limited to, the television advertisements entitled: "Protect," "Moral," "Emma," "Sand," "Wither," "Families," "Threaten," "Firm," "People," "Children," "Slash," "Table," "Supports," "Defend," "Values," "Enough," "Economy," "Photo," "Same," "Finish," and "Dreams." Responsive documents include, but are not limited to, all memoranda, scripts, correspondence,



notes, financial documents, contracts, agreements, telephone bills, logs, video or audio tapes, and records that reference the planning, organization, development and/or creation of any advertisements. Responsive documents also include any other information which satisfies the definition of "document."

2. All documents in your custody or control that refer to, relate to, or contain any information regarding television, radio or print advertisements developed and created by November 5 which were paid for in whole or in part by the DNC. Such advertisements include, but are not limited to, the television advertisements entitled: "Protect," "Moral," "Emma," "Sand," "Wither," "Families," "Threaten," "Firm," "People," "Children," "Slash," "Table," "Supports," "Defend," "Values," "Enough," "Economy," "Photo," "Same," "Finish," and "Dreams." Responsive documents include, but are not limited to, all memoranda, scripts, correspondence, notes, financial documents, contracts, agreements, telephone bills, logs, video or audio tapes, and records that reference the planning, organization, development and/or creation of any advertisements. Responsive documents also include any other information which satisfies the definition of "document."

3. All documents in your custody or control that refer to, relate to, or contain any information regarding television, radio or print advertisements developed and created by SKO which were paid for in whole or in part by the Florida Democratic Party or any other State Democratic Party. Such advertisements include, but are not limited to, the television advertisements entitled: "Protect," "Moral," "Emma," "Sand," "Wither," "Families," "Threaten," "Firm," "People," "Children," "Slash," "Table," "Supports," "Defend," "Values," "Enough," "Economy," "Photo," "Same," "Finish," and "Dreams." Responsive documents include, but are not limited to, all memoranda, scripts, correspondence, notes, financial documents, contracts, agreements, telephone bills, logs, video or audio tapes, and records that reference the planning, organization, development and/or creation of any advertisements. Responsive documents also include any other information which satisfies the definition of "document."

4. All documents in your custody or control that refer to, relate to, or contain any information regarding television, radio or print advertisements developed and created by November 5 which were paid for in whole or in part by the Florida Democratic Party or any other State Democratic Party. Such advertisements include, but are not limited to, the television advertisements entitled: "Protect," "Moral," "Emma," "Sand," "Wither," "Families," "Threaten," "Firm," "People," "Children," "Slash," "Table," "Supports," "Defend," "Values," "Enough," "Economy," "Photo," "Same," "Finish," and "Dreams." Responsive documents include, but are not limited to, all memoranda, scripts, correspondence, notes, financial documents, contracts, agreements, telephone bills, logs, video or audio tapes, and records that reference the planning, organization, development and/or creation of any advertisements. Responsive documents also include any other information which satisfies the definition of "document."

### **INTERROGATORIES**

1. Identify each and every person who has knowledge or information regarding the planning, organization, development and/or creation of television, radio or print advertisements produced by SKO and paid for in whole or in part by the DNC.
2. Identify each and every person who has knowledge or information regarding the planning, organization, development and/or creation of television, radio or print advertisements produced by SKO and paid for in whole or in part by the Florida Democratic party or any other State Democratic Party.
3. Identify each and every person who has knowledge or information regarding the planning, organization, development and/or creation of television, radio or print advertisements produced by November 5 and paid for in whole or in part by the DNC.
4. Identify each and every person who has knowledge or information regarding the planning, organization, development and/or creation of television, radio or print advertisements produced by November 5 and paid for in whole or in part by the Florida Democratic Party or any other State Democratic Party.
5. State the time and date of each meeting and telephone conversation during which there was any discussion of any kind concerning the planning, organization, development and/or creation of television, radio or print advertisements. Such discussion includes but is not limited to discussion of advertisements produced in whole or in part by SKO, advertisements produced in whole or in part by November 5, advertisements paid for in whole or in part by the DNC, advertisements paid for in whole or in part by the Florida Democratic Party or any other State Democratic Party, and advertisements paid for in whole or in part by Clinton/Gore. "Meeting" means any discussion among two or more persons, including discussions that were incidental to another meeting topic, telephone conversations, and discussions by any other electronic medium. For each meeting:
  - a. Identify the location of the meeting, and for telephone or other electronic discussions, the location of each participant.
  - b. Identify each and every person who attended, heard or participated in any meeting. For each identified person, indicate which meeting that person attended, heard or participated in, and the date that each meeting occurred.
  - c. Describe the substance, decisions, discussion and details of each and every meeting.
  - d. Identify who produced the specific advertisements discussed in the meeting, including SKO, November 5, or some other entity or person.

e. Identify each person or entity that paid in whole or in part for any advertisements that were discussed, including but not limited to the DNC, the Florida State Democratic Party, other State Democratic Committees and Clinton/Gore, and the amount paid by each person or entity.

6. Identify each and every person from whom SKO purchased time to air television or radio advertisements. For each identified person, indicate what advertisements aired, the television or radio station on which the advertisements aired, the date the advertisements aired, how many times the advertisements aired, the price of airing the advertisements, and who paid for the airing of the advertisements.

7. Identify each and every person from whom November 5 purchased time to air television or radio advertisements. For each identified person, indicate what advertisements aired, the television or radio station on which the advertisements aired, the date the advertisements aired, how many times the advertisements aired, the price of airing the advertisements, and who paid for the airing of the advertisements.

8. Identify each and every newspaper, magazine or other publication where SKO purchased space to publish advertisements. For each identified publication, indicate what advertisements were published, the date the advertisements were published, the price of publishing the advertisements, and who paid for the publication of the advertisements.

9. Identify each and every newspaper, magazine or other publication where November 5 purchased space to publish advertisements. For each identified publication, indicate what advertisements were published, the date the advertisements were published, the price of publishing the advertisements, and who paid for the publication of the advertisements.

10. Describe any information, instructions or advice provided to the Florida Democratic Party by the DNC, Clinton/Gore, SKO or November 5, or any of their officials or agents concerning any media advertisements including television, radio, or print advertisements.